

# Employer Participation in the Texas Workers' Compensation System: 2012 Estimates



Texas Department of Insurance  
Workers' Compensation Research and Evaluation Group

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# Brief History of Non-subscription in Texas

- Private sector employers have been allowed the option of whether to purchase workers' compensation (WC) insurance since 1913.
- Texas is currently the only state that allows any private-sector employer the option of not purchasing WC insurance or become "non-subscribers" to the state WC system.
- Several states' laws have numerical exceptions that allow small private sector employers to be "non-subscribers."
- The first study in Texas to estimate the percentage of employers that are "non-subscribers" to the Texas WC system took place in 1993 with 8 follow up studies conducted between 1995 and 2012.



# Presentation Overview

- Overall employer non-subscription rates and employee WC coverage rates;
- Primary reasons why employers purchase workers' compensation or become non-subscribers;
- Satisfaction levels of Texas employers;
- Income benefits provided by non-subscribing employers



# Survey Sample and Administration

- TDI made slight modifications to the survey instrument first developed by the Research and Oversight Council on Workers' Compensation (ROC)
- TDI pulled a random probability sample (stratified by industry and employment size) of Texas employers from Texas Workforce Commission (TWC) data
- TDI and the Public Policy Research Institute (PPRI) at Texas A&M University completed 2,528 interviews with year-round private sector Texas employers during June –August 2012
- Employer non-subscription estimates have a +/- 2.4% margin of error at the 95% confidence interval

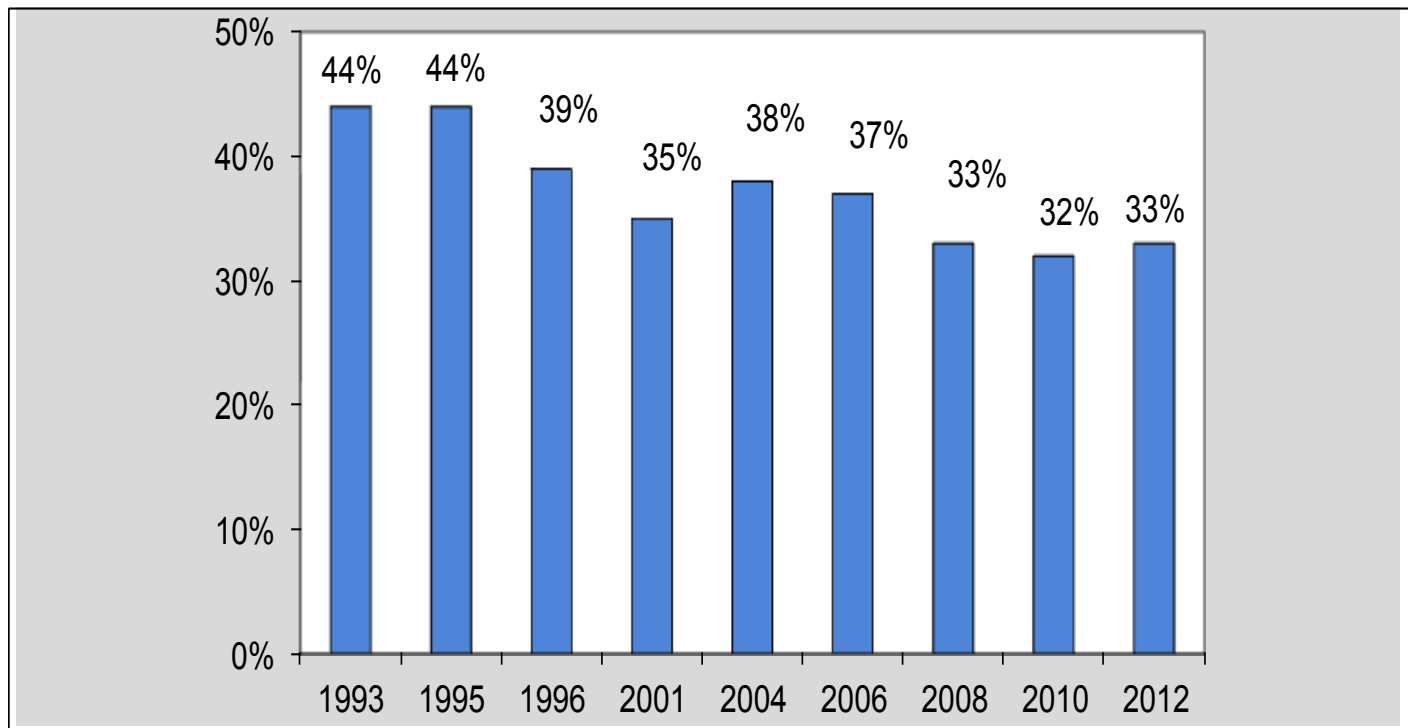




# Overall Non-subscription Estimates



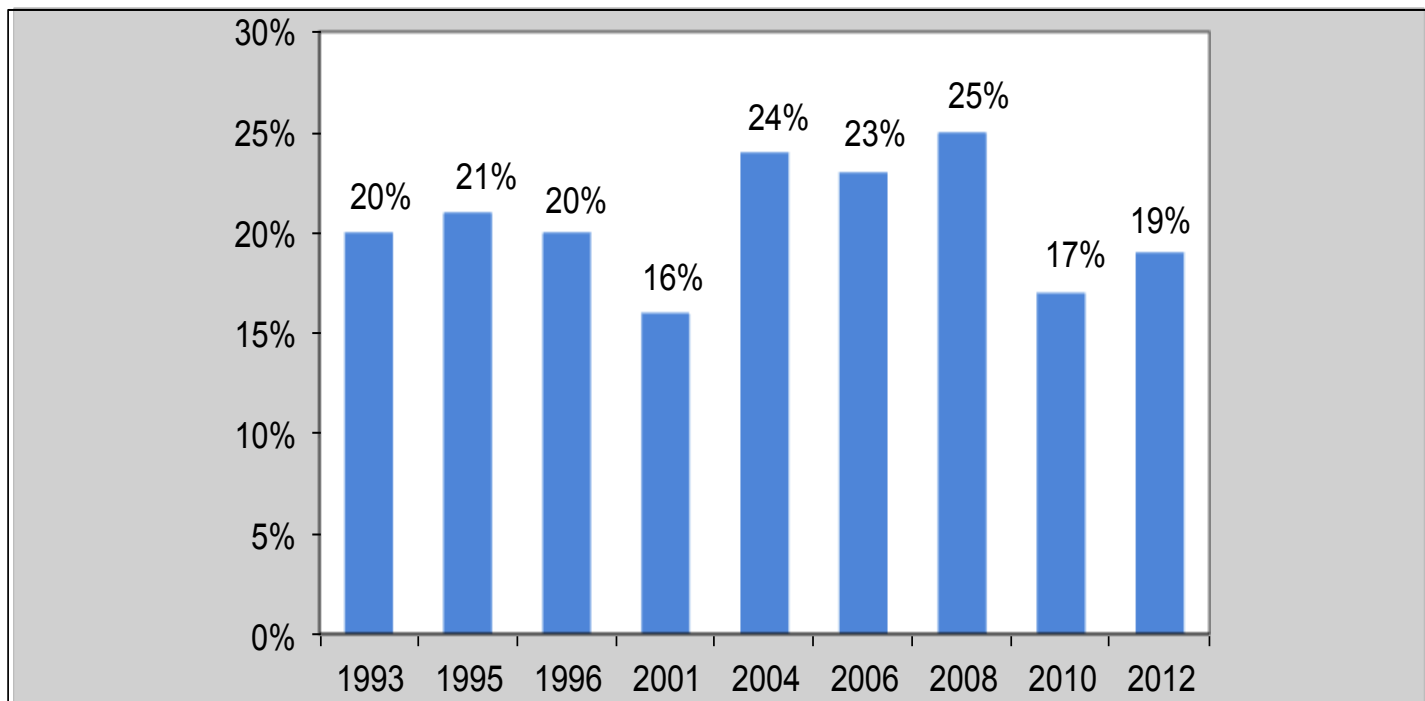
## Percentage of Texas employers that are non-subscribers: 1993-2012



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, 1993 and 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004 - 2012 estimates from the Texas Department of Insurance Workers' Compensation Research and Evaluation Group and PPRI.



## Percentage of Texas employees that are employed by non-subscribers: 1993-2012



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, 1993 and 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004 - 2012 estimates from the Texas Department of Insurance Workers' Compensation Research and Evaluation Group and PPRI.



## Percentage of Texas employers that are non-subscribers, by employment size: 1993-2012

Employment Size	1995	1996	2001	2004	2006	2008	2010	2012
1-4 Employees	55%	44%	47%	46%	43%	40%	41%	41%
5-9 Employees	37%	39%	29%	37%	36%	31%	30%	29%
10-49 Employees	28%	28%	19%	25%	26%	23%	20%	19%
50-99 Employees	24%	23%	16%	20%	19%	18%	16%	19%
100-499 Employees	20%	17%	13%	16%	17%	16%	13%	12%
500 + Employees	18%	14%	14%	20%	21%	26%	15%	17%

Note: Non-subscription estimates for 1993 were based on different employer size categories than were used in later years so they are not directly comparable.

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, 1993 and 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004 -2012 estimates from the Texas Department of Insurance Workers' Compensation Research and Evaluation Group and PPRI.






## Percentage of Texas employers that are non-subscribers, by industry: 2004 - 2012

Industry Type	Non-subscription Rate				
	2004	2006	2008	2010	2012
Agriculture/Forestry/Fishing/Hunting	39%	25%	27%	25%	29%
Mining/Utilities/Construction	32%	21%	28%	19%	22%
Manufacturing	42%	37%	31%	31%	29%
Wholesale Trade/ Retail Trade/Transportation	40%	37%	29%	32%	26%
Finance/Real Estate/Professional Services	32%	33%	33%	33%	32%
Health Care/Educational Services	41%	44%	39%	32%	35%
Arts/Entertainment/Accommodation/Food Services	54%	52%	46%	40%	40%
Other Services Except Public Administration	39%	42%	36%	42%	49%

Note: Industry classifications were based on the 2002 North American Industry Classification System (NAICS) developed by the governments of the U.S., Canada and Mexico, which replaced the Standard Industrial Classification (SIC) system previously used in the U.S. As a result of this change in industry classifications, industry non-subscription rates for 2004 - 2012 cannot be compared to previous years.

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.





# Reasons why employers purchase workers' compensation or become non-subscribers



## Primary reasons why subscribing employers said they purchase workers' compensation coverage

Primary reasons given by surveyed employers	Percentage of subscribing employers			
	2006	2008	2010	2012
Employer thought having workers' compensation was required by law	22%	25%	22%	19%
Employer was able to provide injured employees with medical care through a workers' compensation health care network	20%	24%	27%	20%
Employer was concerned about lawsuits	20%	14%	18%	21%
Employer needed workers' compensation coverage in order to obtain government contracts	6%	3%	6%	9%
Workers' compensation insurance rates were lower	NA	2%	2%	11%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.



## Primary reasons why large subscribing employers (500+ employees) said they purchase workers' compensation coverage

Primary reasons given by surveyed employers with 500+ employees	Percentage of large subscribing employers		
	2008	2010	2012
Employer was able to provide injured employees with medical care through a workers' compensation health care network	28%	29%	20%
Employer thought having workers' compensation coverage was required by law	16%	17%	17%
Employer was concerned about lawsuits	13%	12%	17%
Employer was able to reduce its workers' compensation insurance costs through deductibles, certified self insurance, group self-insurance or other premium discounts	3%	13%	17%
Employer needed workers' compensation coverage in order to obtain government contracts	NA	NA	11%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.



## Primary reasons why non-subscribing employers said they did not purchase workers' compensation coverage

Primary reasons given by surveyed non-subscribing employers	Percentage of large non-subscribing employers			
	2006	2008	2010	2012
Workers' compensation insurance premiums were too high	35%	26%	32%	15%
Employer had too few employees	21%	26%	25%	17%
Employer not required to have workers' compensation insurance by law	9%	11%	13%	17%
Medical costs in the workers' compensation system were too high	4%	4%	5%	10%
Employer had few on-the-job injuries	9%	9%	12%	17%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.



## Primary reasons why large non-subscribing employers (500+ employees) said they did not purchase workers' compensation coverage

Primary reasons given by surveyed non-subscribing employers with 500+ employees	Percentage of large non-subscribing employers		
	2008	2010	2012
Workers' compensation insurance premiums were too high	49%	50%	23%
The employer felt the company could do a better job than the Texas workers' compensation system at ensuring that employees injured on the job receive appropriate benefits (medical and wage loss)	NA	28%	20%
Medical costs in the workers' compensation system were too high	13%	10%	24%
Employer not required to have workers' compensation insurance by law	NA	2%	14%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.

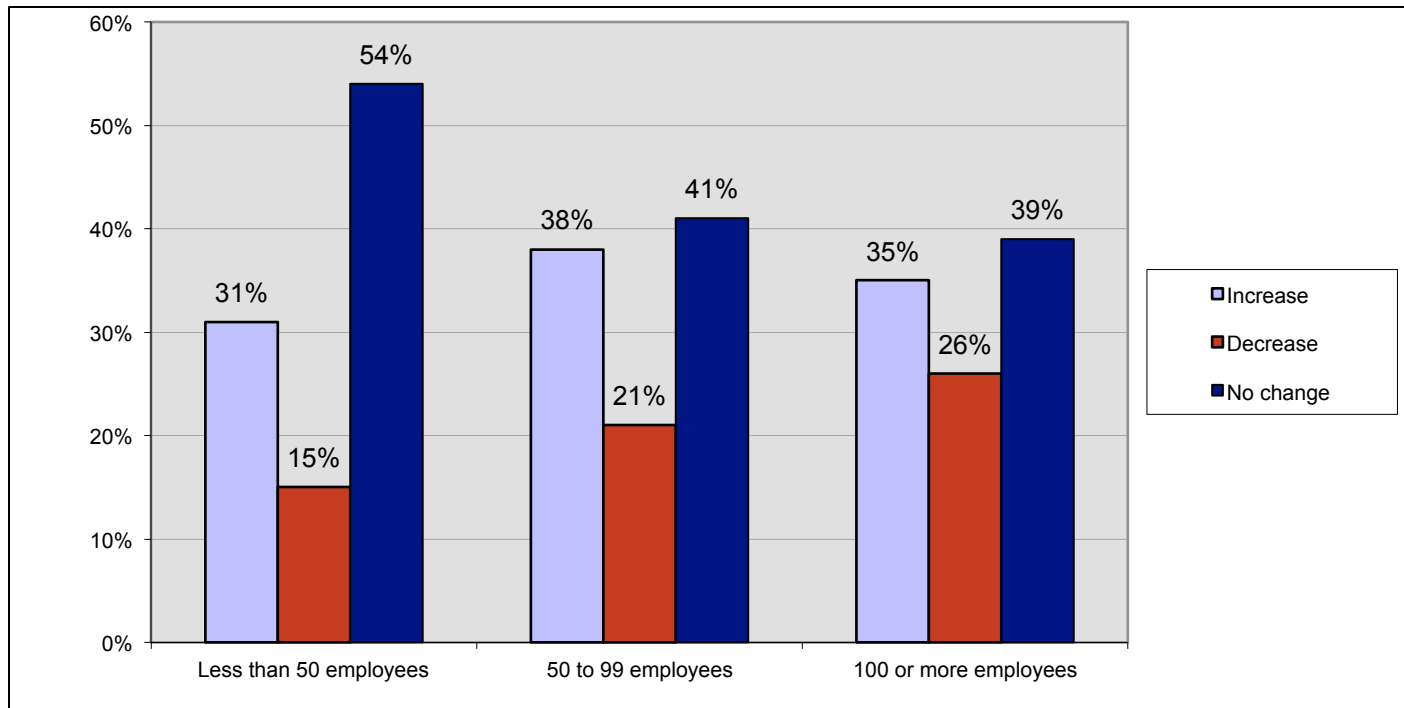




# Texas employers' experiences with workers' compensation insurance costs



## Percentage of Subscribers That Indicated They Experienced a Premium Increase, Decrease, or No Change in Their Premium, by Employment Size: 2012



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, 1993 and 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004 - 2012 estimates from the Texas Department of Insurance Workers' Compensation Research and Evaluation Group and PPRI.







# Satisfaction levels of subscribing and non-subscribing employers



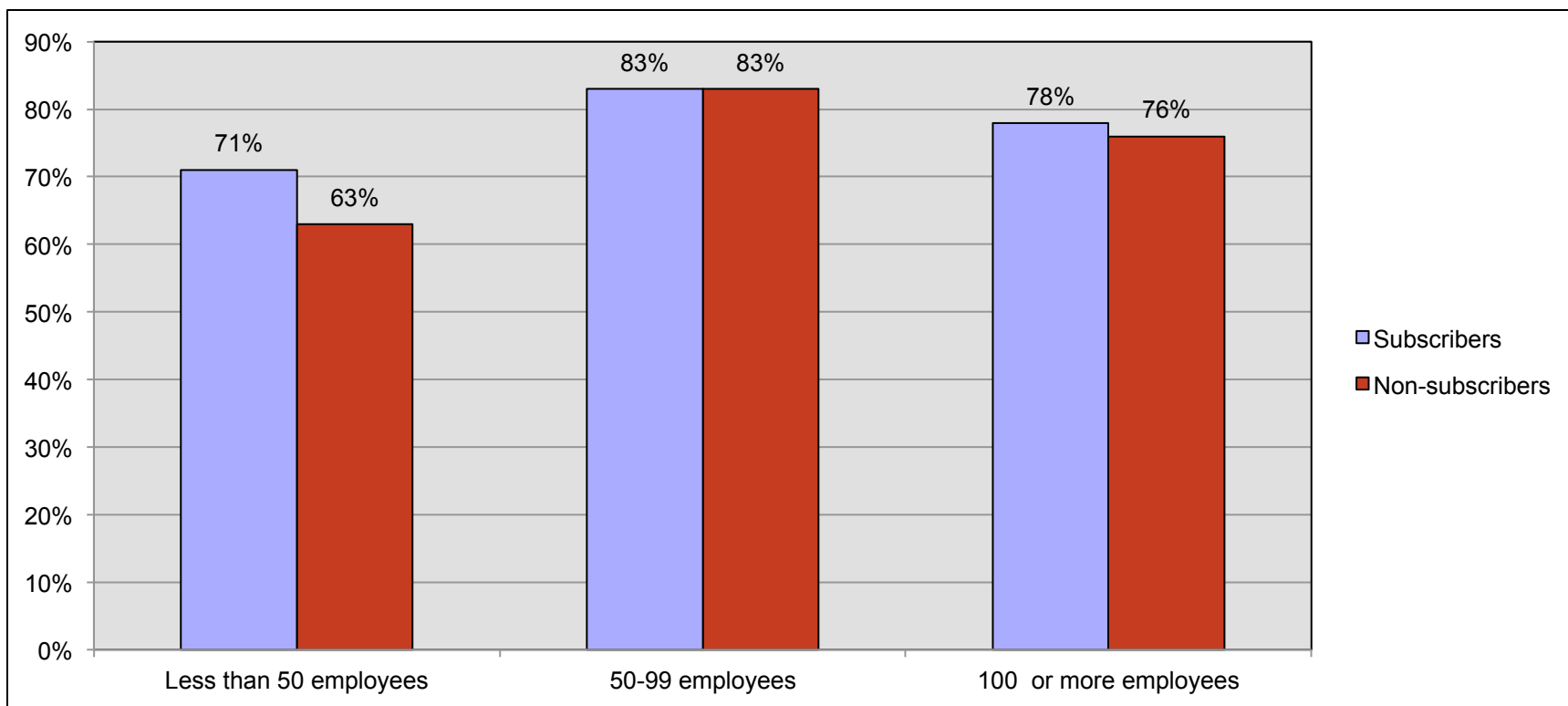
## Percentage “extremely” or “somewhat” satisfied: subscribers and non-subscribers

Satisfaction with subscription/non-subscription experience	Subscribers	Non-subscribers
Overall Satisfaction	72.1%	63.3%
Adequacy and equity of benefits paid to injured workers through the Texas WC System	61.1%	47.0%
Degree to which WC insurance coverage or occupational benefits plan is a good value for the company	73.4%	58.3%
The ability to effectively manage medical and wage replacement costs	62.9%	54.3%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.



## Overall Satisfaction of Subscribers and Non-subscribers by Employment Size



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.

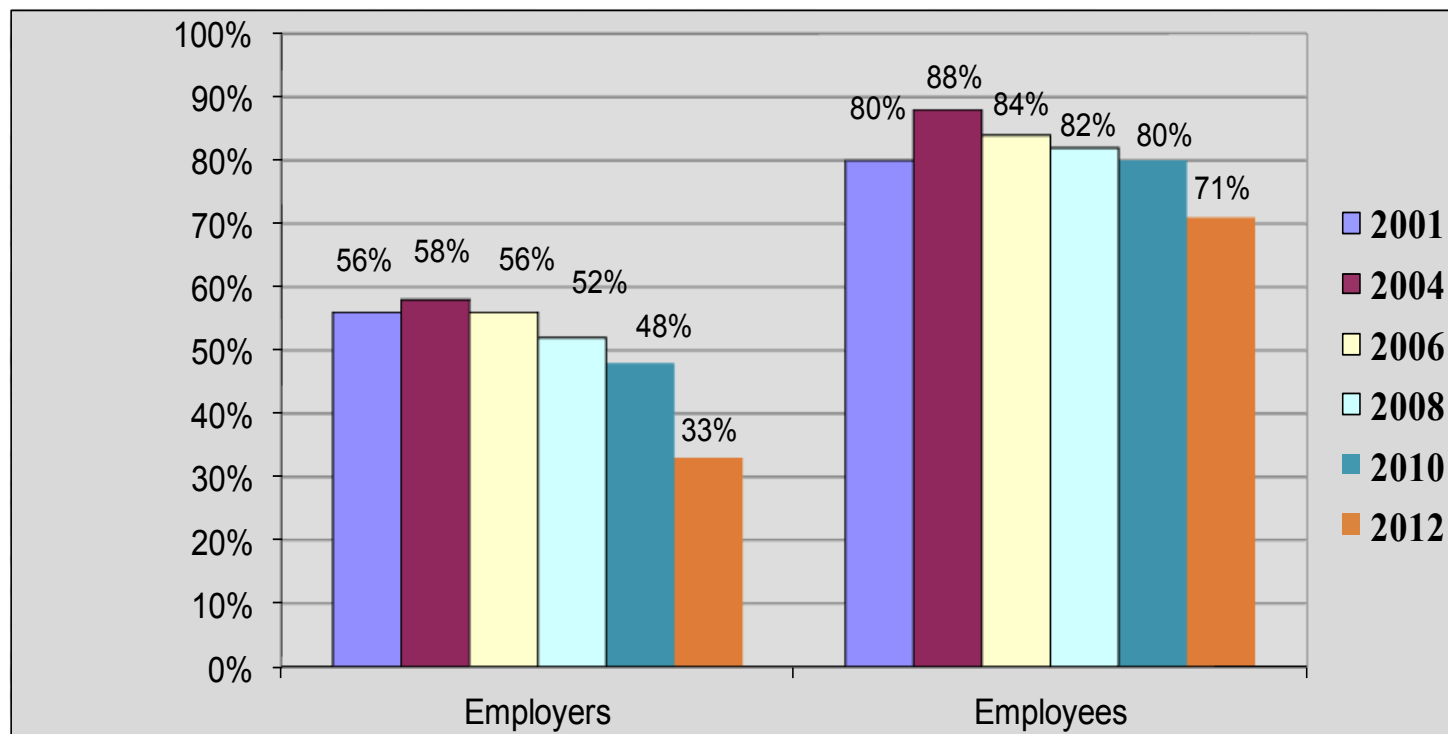




# Benefits provided by non-subscribers

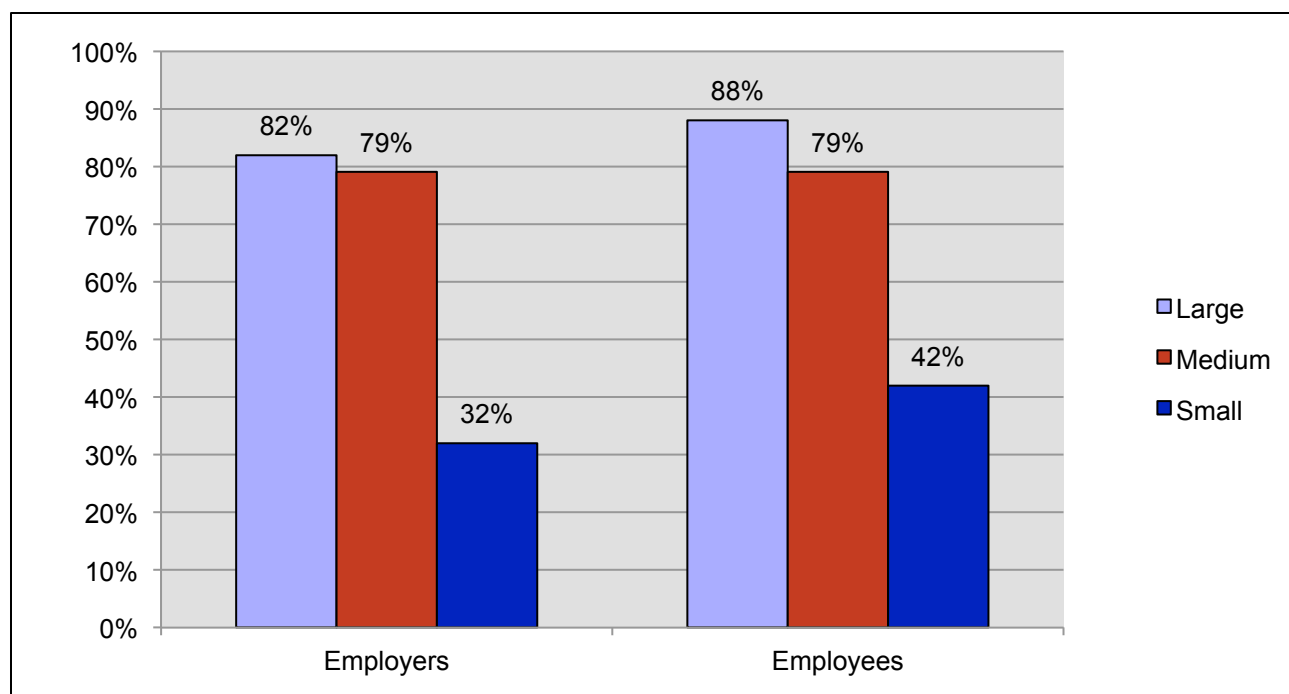


## Percentage of non-subscribing employers that pay occupational benefits and percentage of non-subscriber employees covered by occupational benefit plans, 2001 – 2012 estimates



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute (PPRI) at Texas A&M University; and 2004 -2012 estimates from the Texas Department of Insurance Workers' Compensation Research and Evaluation Group and PPR, 2012.

## Percentage of non-subscribing employers that pay occupational benefits and percentage of non-subscriber employees covered by occupational benefit plans by employer size, 2012 estimates



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute (PPRI) at Texas A&M University; and 2004 -2012 estimates from the Texas Department of Insurance Workers' Compensation Research and Evaluation Group and PPR, 2012.

## Medical benefits paid by non-subscribers

- Of those non-subscribing employers that say they pay occupational injury benefits, 75 percent (71 percent in 2010) cover medical costs
- Of those non-subscribing employers that pay medical benefits:
  - 49 percent said they pay medical benefits for as long as they are medically necessary; and
  - 51 percent cap medical benefits based on the duration of treatment and/or amount of money spent on medical treatments or both

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.



## Wage replacement benefits paid by non-subscribers

- Of those non-subscribing employers that say they pay occupational injury benefits, 55 percent (62 percent in 2010) said they pay wage replacement benefits
- Approximately 66 percent (78 percent in 2010) of non-subscribing employers who pay wage replacement benefit said their injured employees are immediately compensated for lost wages, while 34 percent (22 percent in 2010) said there is a waiting period before wage replacement benefits begin
- Of those non-subscribing employers that pay wage replacement benefits:
  - 55 percent said they pay wage replacement benefits for the entire duration of the injured employee's lost time; and
  - 45 percent cap wage replacement benefits based on the duration of lost time or amount of money spent on wage replacement benefits or both.



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.



## How soon after an employee has been injured must he or she report the injury to be eligible for benefits?

Waiting Periods Given by Non-subscribing Employers	Percent of Non-subscribing Employers
Immediately/Same day	62%
Within 24 hours/Next Day	24%
Other (includes timeframes within 2 to 60 days)	12%
No Policy	2%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.



## Non-subscribers with permanent impairment benefits (i.e., permanent partial benefits)

Non-subscribers with occupational benefit plans	Percentage of Non-subscribers
Non-subscribers with occupational benefit plans	33%
Non-subscribers with occupational benefits who also have income benefits separate from wage replacement benefits for permanent physical impairments	31%
Non-subscribers with income benefits for permanent physical impairments who pay these benefits if employee is back at work	70%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.



## How do non-subscribers pay permanent impairment income benefits?

Non-subscribers with occupational benefit plans	Percentage of Non-subscribers
Pay permanent impairment income benefits to an employee in a lump sum	28%
Pay permanent impairment income benefit payments to an employee in installments over specified period of time	58%
Other/Don't know	14%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.



## Non-subscribers with accidental death, dismemberment or other benefits (i.e., permanent total benefits)

Non-subscribers with occupational benefit plans	Percentage of Non-subscribers
Non-subscribers that pay accidental death, dismemberment, or other benefits for serious injuries	38%
Non-subscribers that pay accidental death, dismemberment, or other benefits to injured employees who return to work	82%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.





## Non-subscribers with death and burial benefits

Benefit plans among non-subscribers	Percentage of Non-subscribers
Death benefits in the case of a work-related fatality	41%
If company has death benefits they are paid to the deceased worker's spouse	94%
If company has death benefits they are paid to the deceased worker's dependent children	72%
If company has death benefits they are paid to others (grandchildren, non-dependent parents)	19%
If death benefits paid, benefit plan covers burial benefits to help pay burial expenses	11%
If burial benefits paid, average benefit paid to help pay burial expenses is higher than \$6,000	39%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.



## How non-subscribers finance occupational benefits to injured employees

Primary ways nonsubscribing employers finance benefits for on-the-job injuries	Percent of Non-subscribers
Through a special account that is self-funded and supplemented with non-subscriber insurance, including excess indemnity insurance, standard occupational accident insurance or some other alternative occupational benefits insurance	30%
Through a special account that is self-funded exclusively by the non-subscriber	19%
Using the non-subscriber's group health insurance	17%
Other (Company's account, sick leave, cash, savings plan between company and employee, etc.)	34%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.





# Use of arbitration agreements



## Use of arbitration by non-subscribing employers

- Overall, 14% (9% in 2010) of current non-subscribers said that they ask their employees to sign an agreement stating that the employee will resolve disputes through arbitration.
- Approximately 63% (76% in 2010) of large non-subscribers use arbitration agreements.
- Approximately 90% (98% in 2010) of non-subscribers that use arbitration asked their employees to sign arbitration agreements when the employee is first hired (pre-injury).





## Use of arbitration by non-subscribing employers

- Approximately 41% (43% in 2010) of non-subscribing employers that use arbitration agreements said that an employee would not receive medical and/or wage replacement benefits if the employee did not agree to resolve disputes through arbitration.
- Overall, 68% of non-subscribers that use arbitration said an employee can continue to be employed by the company even if the employee does not agree to resolve any disputes that arise from the work-related injury through mediation or arbitration.
- Approximately 81% of non-subscribers that use arbitration agreements said the agreement specifies that the mediation or arbitration is binding, meaning that the arbiter's decision is final and cannot be appealed in most cases.



## Arbitration agreements by non-subscribing employers

Does the arbitration agreement include the following:	Percent
A requirement that the employee pay all or a portion of the arbitration costs	34%
A requirement that the employer is also required to submit to arbitration for any disputes that arise from the work-related injury	54%
A requirement the employee's continued employment constitutes acceptance of the employee's agreement to mediate or arbitrate any disputes that arise from work-related injuries	46%
A requirement that the employer is also bound by the result of the mediation or arbitration of the dispute	53%
A requirement that the employee voluntarily waives his or her right to arbitration if the employee fails to submit a written request for arbitration to the employer or respond to the selection of an arbiter within a pre-determined time frame	38%
A requirement that the arbitration take place in a specific geographic location	25%
A requirement that the employee forego recovery of his or her attorney fees	63%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.




## Who generally serves as the arbiter in these disputes?

Types of Arbiters Used by Non-subscribers	Percentage of Non-subscribers
A member of the American Arbitration Association (AAA) or the National Arbitration Forum	23%
A single person who works for the company, mutually agreed upon by the employer and the employee	3%
A single person who works for the company, who always serves as the company's arbiter	15%
A panel of people who work for your company, who are mutually agreed upon by you and the employee	4%
Other	16%
Don't know	39%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.





# Other types of insurance coverage purchased by Texas employers



## Other types of insurance coverage purchased by Texas employers: 2010-2012

Type of Insurance Coverage	2010		2012	
	Subscriber	Non-subscriber	Subscriber	Non-subscriber
General health insurance for employees (excluding dental or vision insurance coverage)	62%	31%	60%	30%
Life insurance for employees	46%	21%	46%	19%
Disability insurance for employees (short-term or long-term or both)	39%	18%	39%	13%
Voluntary accidental death and dismemberment insurance (A, D &D )	40%	18%	40%	15%
General liability insurance (to protect your company against liability for bodily injuries that might occur on your premises)	92%	69%	94%	74%
Property insurance	89%	70%	90%	76%
Commercial auto insurance	68%	46%	72%	46%



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.

## Other types of insurance coverage purchased by large Texas employers (500+ employees): 2010-2012

Type of Insurance Coverage	2010		2012	
	Subscriber	Non-subscriber	Subscriber	Non-subscriber
General health insurance for employees (excluding dental or vision insurance coverage)	90%	91%	95%	97%
Life insurance for employees	87%	83%	92%	91%
Disability insurance for employees (short-term or long-term or both)	84%	78%	87%	84%
Voluntary accidental death and dismemberment insurance (A, D & D )	72%	70%	83%	85%
General liability insurance (to protect your company against liability for bodily injuries that might occur on your premises)	87%	91%	95%	87%
Property insurance	84%	91%	90%	94%
Commercial auto insurance	80%	76%	84%	81%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2012.

